

STATE OF MICHIGAN  
MACOMB COUNTY CIRCUIT COURT

GREGORY D. WIER,

Plaintiff,

vs.

Case No. 2013-2167-CK

FITNESS 24 MMA, INC., BODY LAB, INC.,  
and DANIELLE MCLAIN,

Defendants.

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OPINION AND ORDER

Plaintiff has filed a motion for reconsideration of the Court's January 13, 2015 Opinion and Order granting Defendants' motion for summary disposition.

In the interests of judicial economy the factual and procedural statements set forth in the Court's January 13, 2015 Opinion and Order are herein incorporated.

*Standard of Review*

Motions for reconsideration must be filed within 21 days of the challenged decision. MCR 2.119(F)(1). The moving party must demonstrate a palpable error by which the Court and the parties have been misled and show that a different disposition of the motion must result from correction of the error. MCR 2.119(F)(3). A motion for reconsideration which merely presents the same issue ruled upon by the Court, either expressly or by reasonable implication, will not be granted. *Id.* The purpose of MCR 2.119(F)(3) is to allow a trial court to immediately correct any obvious mistakes it may have made in ruling on a motion, which would otherwise be subject to correction on appeal but at a much greater expense to the parties. *Bers v Bers*, 161 Mich App 457, 462; 411 NW2d 732 (1987). The grant or denial of a motion for reconsideration is a matter

within the discretion of the trial court. *Cole v Ladbroke Racing Michigan, Inc*, 241 Mich App 1, 6-7; 614 NW2d 169 (2000).

### *Arguments and Analysis*

Plaintiff's claims are based, in part, on the premise that he owns the Equipment. However, Plaintiff has failed to provide the Court with any support for that position. Plaintiff's Exhibit A is a purchase agreement pursuant to which Plaintiff's son purchased the Equipment from a third party in 2009. Plaintiff's Exhibit B is a financing statement covering the Equipment. However, Plaintiff has failed to provide the Court with any authority which would allow him to hold a security interest in the Equipment, much less the power to perfect such an interest by filing a financing statement. Finally, Plaintiff's Exhibits C and D involve Defendant Danielle McClain's statements to the Utica police department in which she stated that the Equipment was not hers and that it was owned by Plaintiff. However, Defendant's subjective belief as to who was the owner of the Equipment does not provide any clarity to the issue of who owned the Equipment. While Plaintiff may have told Defendant that he owned the Equipment, Plaintiff has failed to provide any evidence whatsoever that his statement, and Defendant's belief, was true. For these reasons, Plaintiff has failed to properly support his position that he owns the Equipment. As a result, the Court must deny Plaintiff's motion for reconsideration.

### *Conclusion*

For the reasons discussed above, Plaintiff's motion for reconsideration is DENIED. In compliance with MCR 2.602(A)(3), the Court states this matter remains CLOSED.

IT IS SO ORDERED.

/s/ John C. Foster  
JOHN C. FOSTER, Circuit Judge

Dated: March 27, 2015

JCF/sr

Cc: *via e-mail only*  
Jonathan R. Rosenthal, Attorney at Law, [jonrosenthallaw@gmail.com](mailto:jonrosenthallaw@gmail.com)  
Daniel P. Marsh, Attorney at Law, [dan@danielpmarsh.com](mailto:dan@danielpmarsh.com)